IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-07-2007

CORAM :

THE HONOURABLE MR. JUSTICE A. KULASEKARAN

WP No. 14832 of 2007
and
M.P. Nos. 1 and 2 of 2007

-o-

C. Augustine Jacob .. Petitioner

Versus

1. The Union of India
rep. By its Secretary
Ministry of Shipping, Road Transport
and Highways
New Delhi

2. The Competent Authority &
Special District Revenue Officer (LA)
National Highways
Kancheepuram and Thiruvallur District
Kancheepuram

3. The Special Tahsildar
Land Acquisition
National Highways
Tahsildar's Office
Poonamallee
Chennai - 600 056 ... Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorari as stated therein.

For Petitioner : Mrs. Hema Sampath, Senior Counsel
for Mr. S. Packiaraj

For Respondents : Mr. P. Wilson, Asst. Solicitor General
for RR1 & 2

Mrs. Bhavani Subbarayan
Government Advocate for R3

ORDER

The petitioner has come forward with this writ petition praying for a Writ of Certiorari calling for the records of the first respondent published in Gazzette of India (Extraordinary) U/s. 3 A in No:156 dated 21.02.2006 and the consequent notification published in the Gazzette of India (Extraordinary)

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U/s 3 D (1) in No.1249 dated 18.10.2006 and quash the same as illegal.

2. The case of the petitioner is as follows:-

The petitioner is the owner of the land to an extent of 2600 sq.ft., comprised in Survey No. 769/1A1C part, 769/1A4B in New No.84, Old No.61, 2nd Main Road, Sri Balaji Nagar, Chennai - 600 053. The land acquisition proceedings were originally initiated in the year 1988 for formation of bye-pass road connecting NH4 and NH5, in which the petitioner's land was not included but the same was given up and fresh notification was published in newspaper on 21.02.2006 for acquisition of the petitioner's lands also, the petitioner has sent his objection dated 23.03.2006 to the third respondent. On 01.06.2006, the third respondent issued a letter calling upon the petitioner to appear for an enquiry on 15.06.2006, but on that day, no enquiry was conducted, however, the petitioner has submitted his objection on the same day. Again, the petitioner was called upon for an enquiry on 23.08.2006 and on that day also no enquiry was conducted, hence, the petitioner has filed WP No. 35457 of 2006 for a Writ of Mandamus to direct the respondents to conduct enquiry and to give up the proposal of acquiring his land and proceed further as per the original proposal of the year 1988. The said writ petition was dismissed by this Court on 02.03.2007 on the ground that enquiry was conducted, the petitioner's objections were also considered and rejected by the respondents and thereafter the notification under Section 3D of the National Highways Act, (hereinafter referred to as Act) was published on 18.10.2006, with the result, the land vested with the Central Government. The present writ petition has been filed challenging the notifications under Sections 3A and 3D of the Act.

3. Mrs. Hema Sampath, learned senior counsel for the petitioner submitted that originally land acquisition proceedings were initiated, lands were acquired for the purpose of laying of road connecting NH4 and NH5,, compensation was also paid, hence, the fresh notification issued under Section 3A on 21.02.2006 and under Section 3D on 18.10.2006 are violative of the Act and Rules. Even in the present notification issued under Section 3A of the Act dated 21.02.2006, the survey number of the property of the petitioner is not found mentioned; that no enquiry was conducted as contemplated under Section 3C of the Act; that the notifications under Sections 3A and 3D were issued by the Deputy Secretary, who is not competent and prayed for allowing of the writ petition. The learned Senior counsel for the petitioner relied on the below mentioned decisions:-

i) (Messers Ghaio Mal & Sons vs. State of Delhi and others) AIR 1959 Supreme Court 65 wherein in Para Nos. 9 and 11, it was held thus:-

> "9. ....Indeed in paragraph 7 of the respondent's statement filed in the High Court on February 2, 1955 this letter has been stated to have "conveyed the sanction of the Chief Commissioner of the grant of license to the 5th respondent". A document which conveys the

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sanction can hardly be equated with the sanction itself. Finally the document does not purport to have been authenticated in the form in which authentication is usually made. There is no statement at the end of the letter that it has been written "by order of the Chief Commissioner". For all these reasons it is impossible to read this document as the order of the Chief Commissioner."

11. In the view we have taken it is not necessary for us to consider whether the action taken under the Excise Act and the rules thereunder was a judicial or an executive action, for even if it were of the latter category the letter of December 14, 1954, cannot be treated as an order properly authenticated to which the presumption raised by Art.166 of the Constitution will attach. For reasons stated above, we hold that there was no valid order granting the L-2 license to Messers. Gainda Mall Hem Raj and that in the eye of the law the vacancy arising on the closure of the business by Messers. Army and Navy Stores still remains unfilled. The applications of the appellants and other applicants were for a grant of L-2 license for 1954/1955. That year has gone past and accordingly in the changed circumstances we direct the Chief Commissioner to fill up the vacancy caused by the closure of the business by Messers. Army and Navy Stores by inviting applications from intending licensees including the appellants and Messers. Gainda Mall Hem Raj and granting the same to the most suitable party. We, therefore, accept this appeal, reverse the order of the High Court and issue a mandamus to the effect aforesaid and also direct the respondents Nos. 1 to 4 to pay the appellants' costs of this appeal and of the proceedings in the High Court out of which this appeal has arisen. Messers. Gainda Mall Hem Raj are to bear their own costs throughout.

ii) (Major E.G. Barsay vs. State of Bombay) AIR 1961 Supreme Court 1762 wherein in Para Nos. 25 and 26, it was stated thus:-

"25. ....The foregoing decisions authoritatively settled the true interpretation of the provisions of Art. 166 of the Constitution. Shortly stated, the legal position is this: Art 166 (1) is only directory. Though an impugned order was not issued in strict compliance with the provisions of Art. 166 (1) it can be established by evidence aliunde that the order was made by the

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appropriate authority. If an order is issued in the name of the Governor and is duly authenticated in the manner prescribed in R.2 of the said Article, there is an irrebuttable presumption that the order or instrument is made or executed by the Governor. Any non-compliance with the provisions of the said Rule does not invalidate the order, but it precludes the drawing of any such irrebuttable presumption. This does not prevent any party from proving by other evidence that as a matter of fact the order has been made by the appropriate authority. Article 77 which relates to conduct of business of Government of India is couched in similar terms to those in Article 166 and same principle must govern the interpretation of that provision.

26. If that be the legal position, in the instant case, the impugned order does not comply with the provisions of Art.77 (2) of the Constitution and therefore, it is open to the appellant to question the validity of the order made by the President and prove that it was not made by the Central Government. But this legal position does not help the appellant, for as we have pointed out, the uncontroverted evidence of P.W.36 an Assistant in the Home Ministry, which was accepted by the High Court and a special Judge establishes that the order was made by the Deputy Secretary on behalf of the Central Government in exercise of the power conferred on him under the Rules delegating such power to him."

iii) In (Jainabi vs. The State of Tamil Nadu and another) 2006 (5) CTC 163 a Division Bench of this Court held in Para-8, it was held thus:-

"8. On the above discussions, we hold that the District Collector is the only competent authority to exercise the power under Section 4 (1) of the Act for issue of notification, and such power cannot be delegated to any other officer including the Additional Collector in whose name the notification has been issued. We also hold that the power under Section 16 can be invoked by the Government only in respect of the power conferred or any duty imposed on them and such power cannot be extended by delegating the power of the District Collector to issue the notification under Section 4 (1) to the Additional Collector. As we have found merit in the first contention and, on such finding, the notification is liable to be quashed, we are not inclined to go into the next contention

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of the learned counsel for appellant relating to the failure on the part of the respondents to serve the proceedings of the Tahsildar. Accordingly, the Writ Appeal is allowed and the acquisition proceedings are quashed.."

The said three decisions relied on by the learned Senior counsel for the petitioner to say that the said decision is applicable to the facts of the present case on hand as the deputy secretary, who was not authorised to issue the notification, it can be presumed it is not authenticated, hence it must be held he issued it in his own right only.

4. Mr. Wilson, learned Assistant Solicitor General of appearing for the respondents 1 and 2 submitted that the writ petition is neither maintainable in law nor on facts since the petitioner has already filed W.P.No. 35457 of 2006 seeking more or less identical relief. In the said writ petition, if at all, the petitioner should have included all his pleas including the plea of competency of the authority, but he relinquished the said ground and he shall not afterwards file a fresh writ petition in respect of the said plea so omitted or seek for one of several relief; that Order II Rule 2 and 3 CPC is made applicable in this writ petition. The first writ petition was dismissed by this Court on merits on 02.03.2007 and as against the same, the petitioner has not filed any appeal, hence, it reached finality and the present writ petition is not maintainable. The authorities have carefully considered the objections raised by the land owners, including the petitioner, and rejected the same. The rejection Order under Section 3C (2) of the Act also admittedly served on the petitioner, which was not challenged, hence, the consequential order under Section 3D (1) of the Act cannot be questioned. As per the allocation of Business Rules, 1961, as amended upto October 14th, 2006, the Ministry is empowered to issue notification under the Act; that the Central Government, by its Order dated 27.06.2005 has authorised the Deputy Secretary to issue the notification and based on the same, the Deputy Secretary has issued the impugned notifications. In any event, after passing of the award, the writ petition filed by the petitioner is not maintainable. In support of that contention, the learned Assistant Solicitor General appearing for the respondents 1 and 2 relied on the below mentioned decisions:-

i) (Ramalingam and others vs. The State of Tamil Nadu, rep. By the Secretary to the Industries Department, Fort St. George, Chennai and others) 2005 (3) CTC 1 wherein a Division Bench of this Court held in Para-3 thus:-

"3. In these appeals, the facts are that the Award under Section 11 of the Land Acquisition Act was given on 07.11.1996 whereas the writ petitions were filed on 28.11.1996 i.e., after the award was passed. It has been repeatedly held by the Supreme Court that no writ petition should be entertained after the award under the Land Acquisition Act has been passed – vide Tej Kaur and others vs. State of

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Punjab and others, 2003 (4) SCC 485; Municipal Council, Ahmed Nagar vs. Shah Hyder Beig, AIR 2000 SC 671; Executive Engineer, Jal Nigam Central Stores Division, Uttar Pradesh vs. Suresh Nand Jayal, 1997 (9) SCC 224; State of Tamil Nadu v. L. Krishnan and others, 1996 (1) SCC 250. Following the aforesaid decision, we are of the opinion that the writ petition itself were not maintainable and they should have been dismissed on this ground itself. Hence, the writ appeals are dismissed.."

ii) (S. Harshavardhan and another vs. State of Tamil Nadu and others) 2005 (3) CTC 691 wherein in Para-3, it was held by the Division Bench of this Court thus:-

"3. It has been repeatedly held by the Supreme Court in Tej Kaur vs. State of Punjab, 2003 (4) SCC 485, that writ petition challenging the land acquisition proceedings should not be entertained after the award has been passed. In that case, the award was passed on 15.03.1994 whereas the writ petition was filed on 12.4.1994, i.e., after the award was given. Hence the writ petition was dismissed as belated. Similarly, in Municipal Council, Ahmednagar v. Shah Hyder Beig, AIR 2000 SC 671, the Supreme Court vide paragraph 17:

"In any event, after the award is passed, no writ petition can be filed challenging the acquisition notice or against any proceedings thereunder."

The Supreme Court also observed in that decision that this has been the consistent view of the Court e.g., in C. Padma and others vs. Deputy Secretary to the Government of Tamil Nadu and others, 1997 (2) SCC 627; Municipal Corporation of Greater Bombay vs. The Industrial Development Investment Co., Ltd.,. AIR 1997 SC 482, etc., Hence, without going into the merits of the case, we are of the opinion that the writ petition was rightly dismissed on the sole ground of laches. The writ appeals are, therefore, dismissed.."

The learned Assistant Solicitor General appearing also relied on the decision reported in (Ramniklal N. Bhutta and another vs. State of Maharashtra and others) (1997) 1 Supreme Court Cases 134 wherein in Para-10, it was held thus:-

"10. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without

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> any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in Courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the Courts should keep the larger public interest in mind while exercising their power of granting stay/ injunction. The power under Article 226 is discretionary.....
>
> ....It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."

The above decision was relied on by the learned Assistant Solicitor General to say that in land acquisition cases, larger public interest of necessity of rapid acquisition of land for granting basic infrastructural facilities for development may be kept in mind by the courts while granting injunction or quashing the acquisition proceedings.

5. This Court carefully considered the argument of counsel on both sides. In the earlier writ petition in WP No. 35457 of 2006, by order dated 02.03.2007, this Court found that the petitioner attended the enquiry, the documents required by him were also furnished, hence, the enquiry under Section 3C is valid; the submission that earlier acquisition proceedings in the year 1988 was concerned it was relating to formation of NH4 and the present acquisition is for grade separator in NH4 and that the notification under Section 3D was issued on 18.10.2006, as a result of which, the land vested with the Central Government and refused to grant the relief sought for. Admittedly, the petitioner has not challenged the said order dated 02.03.2007 and it reached finality.

6. It is contended by the learned Assistant Solicitor General appearing for the respondents 1 and 2 that the provisions of Order II Rule 2 and 3 of CPC is applicable to writ petition, the petitioner failed to canvass the issue of competency of the

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deputy secretary in issuing the notification under Sections 3A and 3D of the Act or the relief of quashing the same in the earlier writ petition, which amounts to relinquishment, hence, the same cannot be canvassed in the present writ petition. Learned senior counsel appearing for the petitioner submits that assuming the finding in the earlier writ petition in respect of certain issues binding on the petitioner, still, the present writ petition lie where the notification was issued by incompetent authority.

7. Prior to 1976, there was conflicts of opinion as to the applicability of Section 141 of CPC to proceedings under Article 226. This has been resolved by the insertion of an explanation to Section 141 by the CPC Amendment Act. "In this section, the expression 'proceedings' does not include any proceeding under Article 226 of the Constitution of India". Hence, it is no longer open to contend that the orders in the schedule to the Code would have direct application to proceedings under Article 226. Order II Rule 2 and 3 CPC held inapplicable to proceedings under Article 226 of the Constitution of India. This provision requires the suit to contain the whole claim and particularly states that the plaintiff who omits to sue with respect to a particular claim or intentionally relinquishes a claim will be subsequently barred from suing in respect of that claim. This bar will not apply to writ proceedings. At the same time, if the petitioner has not exercised proper diligence or has intentionally given up a claim, it is left to the high court to permit him to raise the omitted or relinquished claim. In this context, it is necessary to refer to the decision of the Honourable Supreme Court reported in (Devendra Pratap Narain Rai Sharma vs. State of Uttar Pradesh and others) AIR 1962 Supreme Court 1334 wherein in Para-12, it was held thus:-

> "12. The High Court has disallowed to the appellant his salary prior to the date of the suit. The bar of O.2 R.2 of the Civil Procedure Code on which the High Court apparently relied may not apply to a petition for a high prerogative writ under Art. 226 of the Constitution, but the High Court having disallowed the claim of the appellant for salary prior to the date of the suit, we do not think that we would be justified in interfering with the exercise of its discretion by the High Court."

Hence, the argument of the learned Assistant Solicitor General that Order II Rule 2 and 3 CPC applicable to writ proceedings is rejected. Now, it is to be considered whether the petitioner has not exercised proper diligence or has intentionally given up the plea of incompetency of deputy secretary in issuing the notification. The Court must take into account the nature of those earlier proceedings and the relief sought. Considering the facts and circumstances which prevailed at the time of filing earlier writ petition and the relief sought, this Court is of the view that the petitioner has not intentionally given up the said plea, hence, the present writ petition to the extent of the said plea alone is maintainable.

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8. Now it is to be seen whether the notification issued under Section 3A and 3D of the Act by the Deputy Secretary is valid. The learned Assistant Solicitor General appearing for the respondents 1 and 2 submits that as per Allocation of Business Rules, 1961, as amended utpo 14th October 2006, the Ministry is empowered to issue notification under the Act. The Central Government, by order dated 27.06.2005 has authorised the Deputy Secretary to issue notification. The Government of India (Allocation of Business) Rules is extracted below.

"ORDER

THE GOVERNMENT OF INDIA (ALLOCATION OF BUSINESS) RULES

In exercise of the powers conferred by clause (3) of article 77 of the Constitution and in supersession of all previous rules and orders on the subject the President hereby makes the following rules for the allocation of the business of the Government of India.

1. Short Title - These rules may be called the Government of India (Allocation of Business) Rules, 1961

2. Allocation of Business - The business of the Government of India shall be transacted in the Ministries, Departments, Secretariats and Offices specified in the First Schedule to these rules (all which are hereinafter referred to as "departments")

3. Distribution of Subjects-

(1) The distribution of subjects among the departments shall be as specified in the Second Schedule to these rules and shall include all attached and subordinate offices as other organisations including Public Sector Undertakings concerned with its subjects and sub-rules (2), (3) and (4) of this rule.

.....

B. DEPARTMENT OF ROAD TRANSPORT AND HIGHWAYS (SADAR PARIVAHAN AUR RAJ MARG VIBHAG)

1. THE FOLLOWING SUBJECTS WHICH FALL WITHIN LIST 1 OF THE SEVENTH SCHEDULE OF CONSTITUTION OF INDIA

1. Compulsory insurance of motor vehicles
2. Administration of the Road Transport Corporations Act, 1950 (64 of 1950)
3. Highways declared by or under law made by Parliament to be national highways

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4. Issuance of notifications under clause (a) of Section 3, and Section 3A and Section 3D of the National Highways scrutinised and vested with the Legislative Department

....."

9. On perusal of the above, I am of the considered view that the submissions made by the learned senior counsel for the petitioner is misconception of the principles underlying our Constitution. The executive power of union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. All the executive action of the Government of India shall be expressed to be taken in the name of the President. Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in Rules to be made by the President, and the validity of an order or instrument, which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President. The President shall make Rules for the more convenient transaction of the business of the Government of India and for the allocation among ministers of the said business. The President, in exercise of powers conferred by clause 3 of Article 77 of the Constitution makes the Rules for allocation of the business of the Government of India. These Rules are called Government of India (Allocation of Business) Rules 1961. The business of the Government of India shall be transacted in the Ministries, Departments, Secretariats and Offices specified in the First Schedule to these rules. The distribution of the subjects among the departments shall be as specified in the second schedule to these Rules and shall include all attached and subordinate offices or other organisations including public sector undertakings concerned with its subjects and sub-rules (2), (3) and (4) of this rule. Thus, the administration of the Central Government is run by council of ministers but in the very nature of things, it is impossible for the Council of Ministers to deal with each and every matter that comes before the Government. In order to obviate that difficulty the Constitution has authorised the President to make Rules for the more convenient transaction of business of the Government of India and for allocation among its ministers, the business of the Government.

10. The learned Senior counsel for the petitioner emphasised that the power to issue notification under Sections 3, 3A and 3D of the Act can be exercised only by the Government namely Secretary and not by no one else. In other words, the Government could not have delegated its statutory functions to any one else. In every well planned administration, most of the decisions are taken by civil servants. When a civil servant takes a decision, he does not do as a delegate of his ministry, he does it on behalf of the Government.

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11. The word Secretary is not defined in the National Highways Act or General Clauses Act so as to exclude the additional or joint or deputy or under secretary. If the same is established then it might be said that the word was intended to designate only the head of the secretarial department concerned with land acquisition under National Highways Act nor was necessary to invest any particular secretary specifically under the Act for no such requirement can be spelled out from the words relied upon. The constitution has authorised the President to make rules for the more convenient transaction of business of the central Government. Even, a deputy secretary did not possess the power, he would have been treated as an officer duly authorised by the Central Government, he does not do so as a delegate of ministry, he does it on behalf of the Government as an officer duly authorised by the Central Government. Hence, the argument of the learned senior counsel for the petitioner that the word 'competent authority' intended to designate only head of the secretarial department concerned is untenable. In this context, it is necessary to look into the Order dated 27.06.2005 empowering the Deputy Secretary to sign notifications of land acquisition, which runs as follows:-

" Government of India
Ministry of Shipping, Road Transport & Highways
Department of Road Transport & Highways
(Establishment-I Section)

No.I-34011/2/2005-E-1
New Delhi, the 27th June, 2005
ORDER

It has been decided by the Competent Authority in the Department of Road Transport & Highways to authorise Deputy Secretary (Planning & Budget) (Presently held by Shri. Prabhakar) in theRoads Wing to sign notifications of land acquisition and toll notifications etc., of Roads Wing in the Department of Road Transport & Highways in "Extraordinary Gazette" after necessary vetting of notifications by Ministry of Law and accord of approval by Competent Authority. In the event of absence due to long leave or official tour of Deputy Secretary (Planning & Budget) in the Road Wing, Deputy Secretary (Coordination) (Presently held by Shri. P.S. Rana) in the Department of Road Transport & Highways will be the authorised signatory for signing such notifications. Similarly, the authorised signatory for the notifications of the Transport Wing of this Department to be published in the Extra-ordinary gazette will be Director (RT).

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2. This order is issued with the approval of Secretary (Department of Road Transport & Highways).

(Renuka Jain Gupta)
Deputy Secretary to the Government of India "

12. It is also useful to refer to the decision of the Honourable Supreme Court reported in (Ishwarlal Girdharlal Josh etc., vs. State of Gujarat and another) 1968 (2) Supreme Court Reports Page No.267 wherein in Page Nos. 273 and 274, it was held thus:-

"Raval's authority to issue the notification under s.6 is questioned on the wording of the latter portion of that section where it is mentinoed that "the declaration shall be made..... under the signature of a Secretary to such Government or some officer duly authorised to certifiy its orders." The argument is without substance. The word "Secretary" is not defined either in the Land Acquisition Act or the General Clauses Act so as to exclude Additional, Joint, Deputy, Under or Assistant Secretaries. If this were established, then it might be said that the word was intended to designate only the head of the secretarial department concerned with land acquisition. No such indication is available from any source. Nor was it necessary to invest any particular Secretary specifically under the Act for no such requirement can be spelled out from the words relied upon. On the other hand, the business of Government is regulated by the Rules of Business made under Art. 166 of the Constitution....."

"Rule 13 specifically places all Secretaries on equality for authentication of orders and instruments of Government and Rule 15 further authorises supplemental instructions which as we shall presently see were in fact issued. Thus Raval was competent to sign the declaration as a Secretary. It is not necessary to consider whether he can be treated as an officer 'duly authorised' because he already had authority by virtue of his office and rule 13 of the Rules of Business contemplates officers other than Secretaries. But if he did not possess the power as a Secretary he would undoubtedly have been competent as an officer duly authorised by virtue of Rule 13 of the Rules of Business and that is all that s.6 requires. No further special authorisation under the Act was necessary."

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"It is obvious that the executive action of the Government was in fact expressed to be taken in the name of the Governor, and that the orders were authenticated in the manner required by rule 13 of the Rules of Business already quoted. The validity of the order could not, of course, be called in question that it was not an order made by the Governor. Had the Government sheltered itself behind the constitutional curtain, it is a little doubtful if the appellants could have successfully pierced this barrier by merely stating that the Government had not passed the orders or made the necessary determination without alleging definite facts. In addition to the constitutional provision, there is also the presumption of regularity of official acts. Orders of the Government, whether at ministerial or gubernatorial level, are all issued in the same form and the constitutional protection as well as the presumption both cover the case."

13. For the reasons mentioned above and also following the ratio laid down by the honourable Supreme Court the plea of the petitioner that deputy secretary has no competency to issue the notification is rejected. The other contention that the authorities who was delegated has delegated his power to deputy secretary is nothing but a misconception of principles. Hence, the decisions relied on by the learned Senior counsel for the petitioner are not applicable to the case on hand.

14. It is well settled that once award is passed no writ challenging the acquisition proceedings be entertained, except in cases where authorities violated the mandatory provisions of law. In this case, this Court do not find any such violation, indeed, the respondents have duly complied with all the mandatory provisions of the Act.

15. For the reasons mentioned above, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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After pronouncing the order today, Mr. S. Packiaraj, learned counsel for the petitioner, on record has prayed this court to grant six months time to vacate and deliver vacant possession.

Mr. P. Wilson, ASG for the respondents has submitted that the period sought for is longer and any short period can be granted to the petitioner enabling him to vacate and deliver vacant possession.

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Considering the facts and circumstances and the fact that the property in dispute is a residential house, three months time from today is granted to the petitioner to vacate and deliver vacant possession, provided that the petitioner shall give an affidavit of undertaking to that effect within one week from today.

Rsh

Sd/-
Assistant Registrar

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Sub Assistant Registrar.

To

1. The Secretary to the Government of India,
   Ministry of Shipping, Road Transport
   and Highways
   New Delhi

2. The Competent Authority &
   Special District Revenue Officer (LA)
   National Highways
   Kancheepuram and Thiruvallur District
   Kancheepuram

3. The Special Tahsildar
   Land Acquisition
   National Highways
   Tahsildar's Office
   Poonamallee
   Chennai - 600 056

सत्यमेव जयते
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- 1 cc to Mr. P. Wilson Assistant Solicitor General of India 9SR No. 43479)
- 1 cc to Mr. S. Packairaj, Advocate SR no. 43138

SR/19.7.2007

Order in
WP No. 14832 of 2007

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